

**Remarks:**

Claims 1-43 were previously pending, with claims 1, 22, 27, and 41 being independent. Applicant has amended claims 1, 3, 22, 27, 31, 32, 41, and 42 and added claims 44-45, such that claims 1-45 are presently pending, with claims 1, 22, 27, 41, and 44 being independent.

***Claim Rejection Under 35 U.S.C. § 101***

In the last Office Action, the Examiner rejected claims 1-35 and 41-42 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Although Applicant traverses this rejection, Applicant has amended each of independent claims 1, 22, 27, and 41 to identify at least a processor that performs the settling of the commercial transaction. Applicant respectfully requests reconsideration of the rejection.

***Claim Rejection Under 35 U.S.C. § 103***

In the last Office Action, the Examiner rejected claims 1-43 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0004868 to Early et al. in view of U.S. Patent Application Publication No. 2002/0152160 to Allen-Rouman and further in view of Official Notice. Applicant respectfully traverses the rejection and submits that the proposed combination of references does not teach or suggest each of the recited elements of the independent claims. As discussed in more detail below, none of the prior art references of record teach or suggest (1) settling a commercial transaction from one of two accounts based on the results of determining whether the transaction satisfies a comparative factor, such as below or above a threshold amount; and (2) settling the commercial transaction from selection of one of two accounts *of the user*.

**Settling a Commercial Transaction from One of Two Accounts**

The independent claims of the present application are generally directed to determining whether a financial transaction satisfies a comparative factor, and, depending on the result of the determination, selecting one of two accounts to settle the transaction. For example, the comparative factor in independent claim 1 is whether an amount of the transaction is above or below a threshold amount. In independent claim 27, for example, the comparative factor is whether a merchant associated with the transaction is an authorized merchant.

Applicant respectfully submits that none of the prior art references of record teach or suggest settling a commercial transaction from one of two accounts based on the results of determining whether the transaction satisfies a comparative factor, such as below or above a threshold amount. As acknowledged by the Examiner, Early does not teach or suggest utilizing a second account for settling the transaction when the comparative factor, such as the monetary amount of a transaction, does or does not meet the selected threshold amount. (OA, p. 5). Instead, Early only discloses determining whether a transaction will exceed a pre-established credit limit.

The Examiner argues, however, that Allen-Rouman allegedly discloses utilizing a second account for settling a transaction. Applicant respectfully disagrees. Allen-Rouman is directed to a process for transferring funds from a first account of a first party, such as a payor, to a second account of a second party, such as a payee. (¶ 0039). An intermediate transfer of the funds is made from the first account of the payor to a third account of a funds transfer server. *Id.* The funds are then transferred from the third account to the second account of the payee. *Id.*

There is no teaching or suggesting in Allen-Rouman of settling a commercial transaction from one of two accounts based on the results of a comparative factor. In Allen-Rouman, settlement of the transaction from either of the two accounts is not dependent on the determinative results of

the comparative factor. In fact, there is no teaching or suggestion in any of the prior art references of record of choosing from one of two accounts to settle the transaction dependent on the comparative factor. Each of the independent claims recites such a feature, and therefore, reconsideration is respectfully requested.

**Settling the Commercial Transaction from Selection of One of Two Accounts of the User**

Applicant also respectfully submits that none of the prior art references of record teaches or suggests settling the commercial transaction from one of two accounts *held by the user*, as recited in independent claims 22, 27, 41, and 44 and dependent claims 2-3 (collectively). For example, in Allen-Rouman, each of the accounts is held by different persons or entities. This is because Allen-Rouman is directed to transferring funds from accounts of different persons or entities, namely the payor and the payee. Thus, settlement of the transaction is not selected from one of two accounts *held by the user*, and reconsideration of the rejection is respectfully requested.

**Dependent Claims 37 and 38**

The Examiner rejects dependent claims 37 and 38 on the same basis as claim 1. (OA, p. 11). In particular, the Examiner argues that claims 37-38 parallel the limitations of claim 1. Applicant respectfully disagrees.

Claims 37-38 recite features not recited in claim 1. For example, claim 37 recites a plurality of users and that the threshold amount is the same for each user. Claim 38 also recites a plurality of users and that the threshold amount is individually established for each user. These features, at the least, are not recited in independent claim 1 and are not taught or suggested by the prior art references of record. Individual consideration of dependent claims 37-38 is respectfully requested.

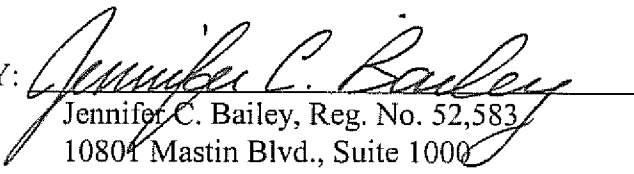
U.S. Application No. 10/668,409  
Amendment Dated May 4, 2009  
Response to Office Action Dated January 2, 2009

In view of the above, Applicant respectfully submits that the proposed combination of Early and Allen-Rouman does not teach or suggest each of the elements recited in the independent claims. Each remaining claim depends, directly or indirectly, from the discussed independent claim and therefore, should be in a condition for allowance in view of its dependence from an allowable base claim and in view of the additional element(s) set forth in each dependent claim.

In view of this response and the remarks herein, Applicant respectfully submits that claims 1-45 are in allowable condition and requests a corresponding Notice of Allowance. In the event of further questions, the Examiner is urged to call the undersigned. Any additional fee which might be due in connection with this application should be applied against our Deposit Account No. 19-0522.

Respectfully submitted,

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